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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,286	03/31/2006	Masayuki Oikawa	287800US26PCT	5521
22850 7590 11/23/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
CHAN, CEDRIC A				
ART UNIT		PAPER NUMBER		
1773				
NOTIFICATION DATE		DELIVERY MODE		
11/23/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/574,286

Applicant(s)

OIKAWA ET AL.

Examiner

CEDRIC CHAN

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10, 12-18 and 21-23.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1773

/C. C./
Examiner, Art Unit 1773

Continuation of 3. NOTE: the proposed claims would require further search because claim 1 further limits the examination objective portion to include a portion that is located between, specifically, "two of the grooves".

Continuation of 11. does NOT place the application in condition for allowance because the arguments presented in Applicant's November 2, 2010 submission have been considered but they were not persuasive.

With regard to claim 1, Applicant suggests that the prior art cited previously (Marumo and Ju) failed to disclose the solution receiver recited in that claim. Specifically, Applicant submits the argument that the cited references (Marumo and Ju) fail to disclose the solution receiver having particular dimensions so as to enable the solution receiver to function (and be operated on) in the manner claimed. Specifically, the claim states that its "dimensions" enable it to store a process solution in a predetermined amount.

Examiner submits that the central issue here, is our interpretation of the word "dimensions." Applicant suggests that Marumo and Ju fail to disclose the particular dimensions recited in the claim. But to that point, Examiner must respectfully disagree. A closer examination of the claimed word, "dimensions," is in order.

The Office determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." In Examiner's view, the particular "dimensions" claimed are not actually very particular at all.

The specification does give some definition to the claimed "dimensions." Specifically, Applicant discloses dimensions in paragraph [0051] of the Specification (see the pre-grant U.S. publication of this case, US 2007/0008638 A1), for example, a description of the height of "side plates" (35) is given; also, a "predetermined distance" is disclosed as a feature of this invention that is described in the same paragraph. Ju's device might not teach every single feature of the solution receiver claimed. But Ju discloses two parallel side plates of a particular (same) height, for example.

Applicants also point to a diagram of the check tool of Ju as evidence supporting their argument that the Ju device "can not hold a solution therein." This must be true, Applicant argues (Remarks, pg. 12), because the device of Ju does not describe an enclosed volume that could hold a solution.

Again, analyzing only what's set forth in the claims, Examiner would point out that Ju's device can perform exactly as can the device claimed. It could hold a liquid located on it in direct contact with an examining portion of the device of Marumo..